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IN THE

Supreme Court of the United States

October Term, 1965

No. 770

DR. WILLIAM R. BECK, ... *Appellant,*

vs.

DANIEL R. McLEOD, Attorney General of South Carolina

Appeal from the U. S. District Court—Eastern District of South Carolina, Charleston Division

STATEMENT AS TO JURISDICTION

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AUTHORITIES

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STATUTORY PROVISIONS:

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OPINION BELOW

The opinion of the Three-Judge District Court dismissed the Complaint of the Appellant upon the ground that the Supreme Court of the United States, in a former case concerning the Statute in question, had stated that there was no substantial Federal question, and that finding was, therefore, binding upon the Three-Judge Court in that it was the same as an adjudication upon the merits and as such foreclosed the questions presented by Plaintiff's Complaint. A copy thereof is annexed hereto as Appendix A, infra pp 2a-3a.

JURISDICTION

(i) This was an action brought by Plaintiff, in accord with 28 U. S. C. §2281, seeking an injunction and declaratory judg-

ment, that the Act of the South Carolina General Assembly approved February 27th, 1956, entitled "An Act To Repeal Sections 56-901 through 56-919, Code of Law of South Carolina, 1952, Relating to The Practice Of Naturopathy; To Make It Unlawful For Certain Persons To Practice Naturopathy In This State: And To Provide Penalties for Violating The Provisions of This Act" (infra, Appendix B, pp 3a-10a), was unconstitutional, in violation of, inter alia, the Due Process and Equal Protection clauses of the Fifth and Fourteenth Amendments.

The proceeding was originally brought in a Three-Judge District Court, as prescribed by 28 U. S. C. §2281, which gives such Court the jurisdiction of suits for injunction, wherein the constitutionality of a State Statute is in issue. Pursuant to Code of Laws of South Carolina, 1962, §10-2008, providing that the Attorney General shall be made a party when the constitutionality of a State Statute is involved, the Attorney General of South Carolina was named sole defendant.

(ii) The opinion and Order of the U. S. District Court dismissing the Complaint was filed on April 21st, 1965. Judgment of the U. S. District Court was filed on April 30th, 1965. The Notice of Appeal was filed in the U. S. District Court, Eastern District of South Carolina, Charleston Division, on June 15th, 1965.

(iii) The jurisdiction of this Court to review the judgment below by appeal is conferred by 28 U. S. C. §1253.

QUESTIONS PRESENTED

I. Whether or not the District Court erred in holding that the effect of the United States Supreme Court's dismissal of an appeal in a different Naturopath's case, that of *Dantzler v. Callison* 352 U. S. 939, for want of a substantial Federal question, was tantamount to an adjudication upon the merits of such case, and as such foreclosed the question in this case, meaning thereby that the Supreme Court had already adjudicated that there was no substantial Federal question involved in that case, and the effect would be that there was none in this case.

II. The following questions were also before the Court below and were, in effect, disallowed by the Court's ruling and is, therefore, erroneous. The questions are set forth below as (a) (b) and (c) as they were before the District Court:

(a) Is the Statute repealing the Naturopathic Laws, with the proviso setting forth a different method of admission, a deprivation of Plaintiff's property rights, without due process of law as provided by the Fifth and Fourteenth Amendments of the Constitution of the United States, in that they require additional qualifications and restrictions that are not reasonably attainable by Plaintiff or others that practiced Naturopathy?

(b) Is the Act violative of the Fifth and Fourteenth Amendments in that it wrongfully discriminates among the classes of the Healing Arts by placing higher restrictions and qualifications upon Plaintiff to practice his profession than upon any other of the Healing Arts?

(c) Is the Repealing Act unconstitutional in that it is arbitrary or discriminatory as applied to Naturopaths and embraces an unreasonable regulation, which does not bear a reasonable relationship to the knowledge necessary to practice Naturopathy?